

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,)	
)	Case No. 2:22-cv-12916
Plaintiff,)	
)	
v.)	
)	
ESTATE OF RICHARD T. COLE, JR.,)	
Deceased;)	
BARBARA COLE, as the <i>de facto</i>)	
EXECUTOR or ADMINISTRATOR of)	
ESTATE OF RICHARD T. COLE, JR.,)	
Deceased; and,)	
ROBERT W. BURLAND, JR.,)	
)	
<u>Defendants.</u>)	

COMPLAINT

The plaintiff United States of America, at the direction of a delegate of the Attorney General of the United States and with the authorization of a delegate of the Secretary of the Treasury, pursuant to 26 U.S.C. § 7401, brings this civil action to: (1) reduce to judgment unpaid federal tax liabilities owed by the defendant Estate of Richard T. Cole, Jr., deceased; and, (2) to reduce to judgment unpaid federal tax liabilities owed by the defendant Robert W. Burland, Jr. For its complaint, the United States alleges as follows:

Jurisdiction and Parties

1. The district court has jurisdiction pursuant to 26 U.S.C. § 7402(a) and

28 U.S.C. § 1331, 1340, and 1345.

2. Richard T. Cole, Jr., was a resident of Milford, Michigan, within the jurisdiction of this Court.

3. Richard T. Cole, Jr., passed away on April 7, 2022, in Oakland County, Michigan.

4. The defendant Estate of Richard T. Cole, Jr., deceased, as set forth below, is responsible for federal tax liabilities assessed against Richard T. Cole, Jr., prior to his death.

5. Upon information and belief, no last will and testament for Richard T. Cole, Jr., exists, which means that he died intestate.

6. Upon information and belief, no probate case has ever been commenced for Richard T. Cole's estate.

7. If Richard T. Cole, Jr., died intestate, Barbara Cole, his wife, is the sole heir and distributee of the property of the Estate of Richard T. Cole, Jr., deceased, or in the alternative, is the first distributee to be followed by shares of the estate distributed to her and Richard T. Cole Jr.'s surviving children.

8. Richard T. Cole Jr.'s surviving spouse, Barbara Cole, resides in Milford, Michigan, within the jurisdiction of this Court. The defendant Barbara Cole is being sued in her capacity as the *de facto* executor or administrator of the Estate of Richard T. Cole, Jr., deceased.

9. The defendant Robert W. Burland, Jr., resides in Waterford, Michigan, within the jurisdiction of this Court.

COUNT ONE

(Claim Against Defendant Estate of Richard T. Cole, Jr., Deceased, and Defendant Barbara Cole, as the *de facto* Executor or Administrator of the Estate of Richard T. Cole, Jr., Deceased, to Reduce Federal Tax Liabilities to Judgment)

10. Richard T. Cole, Jr., was a person required to collect, truthfully account for, and pay over to the United States employment taxes imposed by the Internal Revenue Code with respect to wages of the employees of Associated Community Services, Inc. (“ACS”), in regard to the quarterly tax periods ending on March 31, 2008, June 30, 2008, September 30, 2008, December 31, 2008, March 31, 2010, and December 31, 2012.

11. During the tax periods at issue, Richard Cole had significant control over the financial affairs of ACS, including (but not limited to):

- a. Being the President and 50% owner of ACS;
- b. Holding signatory authority over ACS’s bank accounts;
- c. Having the authority to co-sign loans and promissory notes on behalf of ACS; and,
- d. Having the authority to direct or authorize payments to creditors and employees of ACS.

12. Richard T. Cole, Jr., willfully failed to collect, truthfully account for,

or pay over the employment taxes of ACS.

13. On the dates, in the amounts, and in regard to the quarterly tax periods set forth below, a delegate of the Secretary of the Treasury made trust fund liability assessments against Richard T. Cole, Jr., pursuant to the provisions of 26 U.S.C. § 6672. The amounts represent the unpaid portion of the income, Federal Insurance Contributions Act (“FICA”), and Medicare taxes withheld from the wages of the employees of ACS (the “Trust Funds”). These assessments have balances due, after accounting for all payments and credits, and with interest and costs as of October 27, 2022, as follows:

Quarterly Tax Period	Assessment Date	Amount Assessed	Unpaid Balance as of 10/27/2022
March 31, 2008	12/07/2012	\$725,754.76	\$154,280.93
June 30, 2008	12/07/2012	\$726,724.35	\$755,342.95
September 30, 2008	12/07/2012	\$781,759.68	\$821,019.04
December 31, 2008	12/07/2012	\$356,711.74	\$447,661.28
March 31, 2010	12/07/2012	\$811,919.11	\$1,182,368.15
December 31, 2012	03/31/2014	\$697,023.18	\$969,989.34
Total:			\$4,330,661.69

14. Notice of the liabilities described in paragraph 13 was given to, and payment demanded from, Richard T. Cole, Jr.

15. Despite proper notice and demand, Richard T. Cole, Jr., failed, neglected, or refused to fully pay the liabilities and, after the application of abatements, payments, and credits, the Estate of Richard T. Cole, Jr., deceased, and the defendant Barbara Cole as the *de facto* executor or administrator of the Estate

of Richard T. Cole, Jr., deceased, remains liable to the plaintiff United States in the amount of \$4,330,661.69, plus statutory interest accruing from and after October 27, 2022.

COUNT TWO
(Claim Against Defendant Robert W. Burland, Jr., to Reduce Federal Tax Liabilities to Judgment)

16. Robert W. Burland, Jr., was a person required to collect, truthfully account for, and pay over to the United States employment taxes imposed by the Internal Revenue Code with respect to wages of the employees of ACS, in regard to the quarterly tax periods ending on March 31, 2008, June 30, 2008, September 30, 2008, December 31, 2008, March 31, 2010, and December 31, 2012.

17. During the tax periods at issue, Robert W. Burland, Jr., had significant control over the financial affairs of ACS, including (but not limited to):

- a. Being the President and 50% owner of ACS;
- b. Holding signatory authority over ACS's bank accounts;
- c. Having the authority to co-sign loans and promissory notes on behalf of ACS; and,
- d. Having the authority to direct or authorize payments to creditors and employees of ACS.

18. Robert W. Burland, Jr., willfully failed to collect, truthfully account for, or pay over the employment taxes of ACS.

19. On the dates, in the amounts, and in regard to the quarterly tax periods set forth below, a delegate of the Secretary of the Treasury made trust fund liability assessments against Robert W. Burland, Jr., pursuant to the provisions of 26 U.S.C. § 6672. The amounts represent the unpaid portion of the Trust Funds withheld from the wages of the employees of ACS. These assessments have balances due, after accounting for all payments and credits, and with interest and costs as of October 27, 2022, as follows:

Quarterly Tax Period	Assessment Date	Amount Assessed	Unpaid Balance as of 10/27/2022
March 31, 2008	12/06/2012	\$725,754.76	\$154,187.43
June 30, 2008	12/06/2012	\$726,724.35	\$755,429.68
September 30, 2008	12/06/2012	\$781,759.68	\$818,814.70
December 31, 2008	12/06/2012	\$356,711.74	\$447,703.89
March 31, 2010	12/06/2012	\$811,919.11	\$1,182,465.11
December 31, 2012	03/31/2014	\$697,023.18	\$969,971.23
Total:			\$4,328,572.04

20. Notice of the liabilities described in paragraph 19 was given to, and payment demanded from, Robert W. Burland, Jr.

21. Despite proper notice and demand, Robert W. Burland, Jr. has failed, neglected, or refused to fully pay the liabilities and, after the application of all abatements, payments, and credits, the defendant Robert W. Burland, Jr., remains liable to the plaintiff United States in the amount of \$4,328,572.04, plus statutory interest accruing from and after October 27, 2022.

WHEREFORE, the plaintiff United States of America requests the following relief:

A. Judgment against the defendant Estate of Richard T. Cole, Jr., deceased, and the defendant Barbara Cole, as the *de facto* executor or administrator of the Estate of Richard T. Cole, Jr., deceased, for Trust Fund liabilities under 26 U.S.C. § 6672 in regard to ACS for the quarterly tax periods ending March 31, 2008, June 30, 2008, September 30, 2008, December 31, 2008, March 31, 2010, and December 31, 2012, in the amount of \$4,330,661.69, plus statutory additions and interest accruing from and after October 27, 2022, including interest as allowed by Sections 6601, 6621, and 6622 of the Internal Revenue Code and Section 1961(c) of Title 28 of the United States Code;

B. Judgment against the defendant Robert W. Burland, Jr., for Trust Fund liabilities under 26 U.S.C. § 6672 in regard to ACS for the quarterly tax periods ending March 31, 2008, June 30, 2008, September 30, 2008, December 31, 2008, March 31, 2010, and December 31, 2012, in the amount of \$4,328,572.04, plus statutory additions and interest from and after October 27, 2022, including interest as allowed by Sections 6601, 6621, and 6622 of the Internal Revenue Code and Section 1961(c) of Title 28 of the United States Code; and,

C. The United States of America shall recover its costs, and be awarded such other and further relief as the Court deems just and proper.

Respectfully submitted,

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